

Part 4

Operational Requirements and Prohibitions

70D-3-401 Record requirements -- Reports of condition.

- (1) An individual required to be licensed under this chapter shall create a record required by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) An individual required to be licensed under this chapter shall maintain and produce for inspection a record required to be maintained by a rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for four years from the last to occur of the following:
 - (a) the final entry on a residential mortgage loan is made by that licensee;
 - (b) if the residential mortgage loan is serviced by the licensee:
 - (i) the residential mortgage loan is paid in full; or
 - (ii) the licensee ceases to service the residential mortgage loan; or
 - (c) if the residential mortgage loan is not serviced by the licensee, the residential mortgage loan is closed.
- (3) An individual required to be licensed under this chapter shall maintain and produce for inspection by the commissioner a report of condition submitted to the nationwide database as required by 12 U.S.C. Sec. 5104(e) for at least four years from the day on which the individual submits the report of condition to the nationwide database.

Enacted by Chapter 72, 2009 General Session

70D-3-402 Prohibited acts.

- (1) An individual transacting the business of a loan originator in this state may not:
 - (a) violate or not comply with:
 - (i) this chapter;
 - (ii) an order of the commissioner under this chapter;
 - (iii) a rule made by the commissioner under this chapter;
 - (iv) Title 70C, Utah Consumer Credit Code, if subject to that title; or
 - (v) Chapter 2, Mortgage Lending and Servicing Act, if subject to that chapter;
 - (b) engage in an act that is performed to:
 - (i) evade this chapter; or
 - (ii) assist another person to evade this chapter;
 - (c) do any of the following to induce a lender to extend credit as part of a residential mortgage loan transaction:
 - (i) make a false statement or representation;
 - (ii) cause a false document to be generated; or
 - (iii) knowingly permit false information to be submitted by a person in a transaction;
 - (d) fail to respond within the required time period to:
 - (i) a notice or complaint of the commissioner; or
 - (ii) a request for information from the commissioner;
 - (e) make a false representation to the commissioner, including in a licensure application;
 - (f) engage in the business of a loan originator with respect to a residential mortgage loan transaction if the individual also acts in any of the following capacities with respect to the same residential mortgage loan transaction:

- (i) appraiser;
 - (ii) escrow agent;
 - (iii) real estate agent;
 - (iv) general contractor; or
 - (v) title insurance agent;
 - (g) engage in an act or omission in transacting the business of a loan originator that constitutes dishonesty, fraud, or misrepresentation;
 - (h) engage in false or misleading advertising;
 - (i)
 - (i) fail to account for money received in connection with a residential mortgage loan;
 - (ii) use money for a different purpose than the purpose for which the money is received; or
 - (iii) subject to Subsection (3), retain money paid for services if the services are not performed;
 - (j) fail, within 90 calendar days of a request from a borrower who has paid for an appraisal, to give a copy of an appraisal ordered and used for a residential mortgage loan to the borrower;
 - (k) recommend or encourage default, delinquency, or continuation of an existing default or delinquency, by a mortgage applicant on an existing indebtedness before the closing of a residential mortgage loan that will refinance all or part of the indebtedness;
 - (l) pay or offer to pay an individual who does not hold a license under this chapter for services that require the individual to hold a license under this chapter; or
 - (m) violate or fail to comply with a provision of Title 57, Chapter 28, Utah Reverse Mortgage Act.
- (2)
- (a) An individual engaging solely in loan processor or underwriter activities, may not represent to the public that the individual can or will perform any act of a loan originator.
 - (b) A representation prohibited under this Subsection (2) includes an advertisement or other means of communicating or providing information including the use of:
 - (i) a business card;
 - (ii) stationery;
 - (iii) a brochure;
 - (iv) a sign;
 - (v) a rate list; or
 - (vi) another promotional item.
- (3) Notwithstanding Subsection (1)(i)(iii), if a licensee complies with Section 70D-2-305, the licensee may charge a reasonable cancellation fee for services completed to originate a residential mortgage loan if the residential mortgage loan is not closed.

Amended by Chapter 290, 2015 General Session